

***United States Court of Appeals
for the Second Circuit***



PETITION

74-1611

8/29/74

B
P/S.

COURT OF APPEALS NO. 74-1611

In The
UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

REA EXPRESS, INC., et al.,

Petitioners,

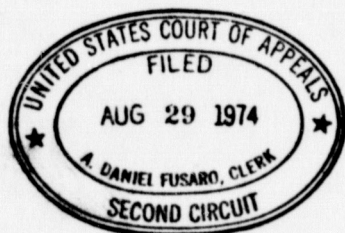
-against-

CIVIL AERONAUTICS BOARD, et al.,

Respondents.

Petition for Review of an Order
Of the Civil Aeronautics Board

BRIEF OF UNITED AIR LINES, INC.,
ONE OF THE AIRLINES PARTICIPATING
IN AIR EXPRESS SERVICE



Communications with respect to this
document should be sent to:

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DATED: August 29, 1974

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

REA EXPRESS, INC.,

Petitioner

v.

CIVIL AERONAUTICS BOARD

Respondent

No. 74-1611

BRIEF OF UNITED AIR LINES, INC.,
ONE OF THE AIRLINES PARTICIPATING
IN AIR EXPRESS SERVICE

United Air Lines, Inc. ("United"), one of the Airlines Participating in Air Express Service, which have petitioned for leave to intervene herein on May 20, 1974, submits this Brief. United has earlier filed with this Court a Memorandum in Opposition to the Motion of REA Express, Inc. ("REA"), on July 15, 1974.

I.

PRELIMINARY STATEMENT

United subscribes to and concurs with the Brief for Airline Intervenors, which has been submitted jointly on behalf of the airlines participating in air express service.

However, United wishes to make its position known to this Court with respect to the Board's decision in the Express Service Investigation, Docket 22388. For this reason, and to clarify the record before this Court, United submits the following.

II.

THE BOARD'S DECISION IN DOCKET 22388
SHOULD BE AFFIRMED

United fully supports the Board on this appeal with respect to the Express Service Investigation and urges that this Court find that the Board has not committed any reversible error in that proceeding or in its decisions and orders issued therein.^{1/} United agrees with the Board's recent finding and conclusion "that the nation's shippers will be better served when air express is ended. . . ." (Board Order 74-6-118, June 26, 1974, p.5). REA has presented no convincing reason why the Board's finding in this respect should be reversed, and United accordingly urges this Court to affirm the Board's final decision in its Docket 22388.

^{1/} Board Orders 73-12-36 (December 7, 1973) and 74-5-25 (May 5, 1974).

III.

UNITED PRESENTS THE FOLLOWING FACTUAL
ADDITIONS TO CLARIFY THE RECORD IN
THIS CASE

In addition to the factual corrections which have been made in the Brief for Airline Intervenor, United presents the following in order that this Court may be aware of action which United has taken with regard to air express service.

On April 5, 1974, United urged in the Express Service Investigation that the Board not extend REA's exclusive status as an indirect air carrier to engage in air express from June 5, 1974, to January 31, 1975.^{2/} At that time United advised that it was prepared to introduce on short notice a "highly expedited priority service" as required by Board Order 73-12-36, (December 7, 1973, p.38). Subsequently, United's opposition to the continuance of REA's exclusive authority to engage in air express as an indirect air carrier beyond July 31, 1974, has been confirmed on two occasions: Both before the Board on June 5, 1974,^{3/} and

^{2/} Response to Motion for Extension.

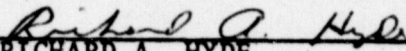
^{3/} Answer of United Air Lines, Inc., to Motion of REA Express, Inc. for Stay.

before this Court in a document filed July 15, 1974,^{4/} United urged that REA's Motion for Stay of the Board's final decision in the Express Service Investigation be denied.

Consistent with the foregoing, United filed on June 26, 1974, with the Board its own tariff for a "highly expedited priority service," for effectiveness November 29, 1974, the date on which United's termination of its participation in the Air Express Agreement will become effective.

WHEREFORE, United urges this Court affirm the Board's decisions in the Express Service Investigation case and dismiss the appeal with respect to those orders.

Respectfully submitted,


RICHARD A. HYDE
Attorney for:
UNITED AIR LINES, INC.

DATED: August 29, 1974

^{4/} Memorandum of United Air Lines, Inc., One of the Airlines Participating in Air Express Service, in Opposition to Motion of REA Express, Inc., for Stay.

CERTIFICATE OF SERVICE

I hereby certify that I have this 29th day of August, 1974, served the foregoing Brief by mailing a copy thereof via first class mail, postage prepaid, to the following persons:

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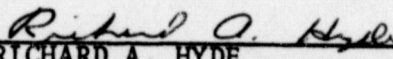
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